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STATE BOARD OF EQUALIZATION

(916) 445-6493

June 2, 1989

Periodicals --- --- magazine experiment kits

Dear ----

In your April 20, 1989 letter to Mr. Gary Jugum, Assistant Chief Counsel, you request a legal opinion from the Board regarding the taxability of experiment kits sold' as a part of a monthly science magazine. You relate that your client, ---, will publish a monthly education magazine, --- for students in grades 4 through 6. The magazine will have articles about math, reading, social studies, science, and other features designed to educate children in problem solving and other academic skills.

You write in part:

"4. Each issue will include an experiment to be completed and a kit with the materials necessary to complete the experiments. The experiment kits will include such items as plastic test tubes, racks, tiny aquariums, stands, droppers, magnifying glasses and seeds or eggs. See Exhibit A for a description of one kit. The magazine and experiment kit will be sent to the, subscriber in one package. After completing the experiment, the subscribers will complete an experiment report and mail it back to ---.

"5. --- --- --- review the study worksheets and experiment, reports and send comments back to the subscribers.

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"7. The magazine, the experiment of the study worksheets and experiment reports will all be included in one subscription price."

You ask that we agree with the following conclusions:

"1. The magazine is exempt from sales and use tax as a periodical under Section 6362. It meets the requirements of Regulation 1590 in that:

"a. It will be published at stated intervals averaging less than three months. (Monthly)

"b. Each issue will contain information of general interest. (Math, Reading, Social Studies and Science)

"c. There will be a continuity of subject matter from one issue to the next. However, specific articles will probably not be repeated.

"d. While the periodical deals with educational subjects, it is similar to bible study guides which qualify as exempt periodicals under Sales and Use Tax Annotation 385.1350.

"2. The review of the experiment reports by Synken, Inc. is a service which is exempt from sales and use tax under Regulation 1501.

"3. The experiment kit is a component part of the periodical. The experiments are explained in the magazine (see pages 32 to 44 in the enclosed sample magazine). The experiment kits are manufactured to meet the requirements of a specific set of experiments and have no market value or other use. As a component part of an exempt periodical, the experiment kit is exempt from sales and use tax under Section 6362."

### Opinion

We agree with your conclusions numbers 1 and 2 above. --- magazine meets the criteria for exemption from sales and use tax as a periodical under the tests set out in Regulation 1590 (a)(2). We also agree with your conclusion that --- reviews of the experiment reports and study worksheets is a service exempt from sales and use tax. However, our reason is not because the service is exempt under Regulation 1501. Rather, our opinion is that --- s performing a service which is an integral part of the sale of the magazine since the student may obtain --- review of the study worksheets and experiment reports only if the student purchases the magazine. Since the magazine is exempt from sales and use tax, so is the service provided by ---. However, our view would be different if the magazine were taxable under other circumstances, for example, if the magazine were published only three times a year. In that case, these services would be taxable as part of the sale of tangible property. (Revenue and Taxation Code Section 6012(b) (1)).

We cannot agree with your conclusion number 3 above, that the experiment kit is exempt from tax as a component part of the periodical. Component parts of periodicals refer to such items as paper, ink, staples, etc., and not to other types of tangible property which may be packaged with or sold together with the periodical itself. We also cannot agree with your statement that the experiment kits have no other use than for the reader to perform a specific set of experiments. For example, in the November 1988 issue of --- the science equipment package

sold together with the magazine includes an aquarium, brine shrimp eggs, food, a food container, a magnifying glass, a thermometer, and a dropper, all of which would be useful to the purchaser as an aquarium set for home use regardless of whether or not the reader performed the experiments described in this issue. Our opinion is that tax applies to that portion of 's entire charge for the magazine, the review services, and the experiment kit, which is attributable to the value of the experiment kit itself.

Please feel free to contact me if you have any further questions or comments about this letter.

Sincerely,

John Abbott  
Senior Tax Counsel

JA:jb